

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

JARED WILLIAMS,)	
)	
Plaintiff,)	
)	
v.)	Cause No. 4:17-cv-01282-JCH
)	
EKE GAYDEN, <i>et al.</i> ,)	
)	
Defendants.)	

**JOINT MOTION FOR INDICATIVE JUDGMENT
REGARDING MOTION FOR RELIEF FROM JUDGMENT**

COME NOW the parties, by and through their respective counsel, and pursuant to Federal Rules of Civil Procedure 62.1 and 60(b), hereby move the Court for an indicative ruling on a to-be filed motion for relief from judgment, and in support thereof state the following:

1. On September 30, 2021, the Court entered its judgment in this Cause consistent with the jury's verdicts (hereinafter, the "Judgment"). [Doc. 214].
2. On November 23, 2021, the Court denied Defendant Toriano Tate's motion for new trial. [Doc. 226].
3. On December 23, 2021, Tate filed a notice of appeal. [Doc. 230].
4. The parties have reached a tentative settlement agreement in principle, a necessary component of which is the *vacatur* of the Judgment.
5. Tate's pending appeal deprives this Court of jurisdiction to grant a Rule 60(b) motion. ***Porter v. Sun Life & Health Ins. Co.***, No. 4:09-CV-00344-DGK, 2011 U.S. Dist. LEXIS 103002, at *2 (W.D. Mo. Sep. 13, 2011).

6. However, Rule 62.1(a)(3) authorizes the Court to “state...that it would grant” a joint motion under Rule 60(b) if the appellate court remands for that purpose.

7. The parties have engaged in significant negotiations since the entry of the Judgment, and have reached a resolution that is mutually satisfactory.

8. Courts can and do set aside and vacate judgments entered upon a jury verdict where the parties thereafter settle their dispute. *See, e.g., Wynes v. Paramo*, No. 2:16-cv-12656, 2018 U.S. Dist. LEXIS 99755, at *2 (E.D. Mich. June 14, 2018).

9. If the Court indicates that it would grant such a joint motion, the Defendant will seek a remand from the Eighth Circuit to make the joint motion pursuant to Rule 60(b).

10. The settlement contemplated by the parties will entirely dispose of this matter, including the appeal and the pending motions for attorneys’ fees and costs.

11. The parties are available for a teleconference on this matter should the Court have additional questions. Alternatively, the parties can submit a more detailed memorandum in support.

WHEREFORE, Plaintiff and Defendants move the Court issue its indication that it would grant a joint motion to vacate the Judgment pursuant to Rule 60(b), and for such other and further relief as this Court deems just and proper.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and complete copy of the foregoing was served upon all counsel of record via the Court's electronic filing system on this 25th day of January, 2022.

/s/ Steven R. Kratky